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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/771,374	01/26/2001	Kalpesh Dhanvantrai Mehta	10559-177001 / P6237	6479

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EXAMINER

ZHEN, LI B

ART UNIT	PAPER NUMBER
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2194

DATE MAILED: 04/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/771,374

Applicant(s)

MEHTA, KALPESH
DHANVANTRAI

Examiner

Li B. Zhen

Art Unit

2194

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 January 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The reply was filed after the date of filing a Notice of Appeal, but prior to the date of filing an appeal brief. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: none.
Claim(s) objected to: none.
Claim(s) rejected: 4,5,9,10 and 14-20.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.


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Continuation of 11. does NOT place the application in condition for allowance because: applicant's arguments are not persuasive.

In response to the Final Office Action dated 10/20/2004, applicant argue:

(1) Hedge does not teach providing access to the high priority access values and only after each of those high priority access values get access, providing access to the lower priority access values [p. 8, lines 8 - 11];

(2) there is no teaching or suggestion that high priority processes will be serviced before low priority processes [p. 9, lines 1 - 2];

(3) none of the processes are adjusted with a higher priority than others, although some get more bandwidth than others [p. 9, lines 9 - 10];

(4) nothing in Hedge teaches or suggest a way that some process, such as process Pa, could be serviced before the other processes [p. 9, lines 11 - 13]; and

(5) claim 18 defines a priority value where the high priority request all get granted prior to the low priority requests [p. 9, lines 15 - 18].

As to argument (1), examiner respectfully disagrees and notes that Hedge teaches providing access to processes with high priority [since Pc has the highest count value, it is the process which is executed first; i.e. col. 7, lines 50 - 54] and only after each of those high priority access values get access, providing access to the lower priority access values [after step 44, one of the processes in the "Others" group is executed in step 36 because it now has the highest count value 5; i.e. col. 8, lines 17 - 22]. Examiner notes that Pc started with a higher value (6) than Po (5) and Pc is executed before Po, which has the second highest value and it is therefore executed next. Additionally, examiner notes that the claims identify the requests as a request to access a shared resource [i.e. claim 18, lines 3 - 4]. Since Hedge teaches providing processes with access to the CPU [i.e. col. 7, lines 54 - 57] and the CPU is a shared resource, execution of the processes in Hedge corresponds to providing access to a shared resource.

In response to arguments (2), (3) and (5), examiner respectfully disagrees and notes that the count value as disclosed in Hedge corresponds to the access values recited in the claims [see previous office action]. Hedge also teaches high [Pc has count value 6; col. 7, lines 45 - 50] and low [Pa has count value 1; col. 7, lines 45 - 50] priority access values. Examiner notes that according to the example provided in columns 7 and 8, Pc is executed before Pa.

As to argument (4), examiner respectfully disagrees and notes that if the count value of Pa is set to 7, then process Pa will be serviced before the other processes [based on the examples in columns 7 and 8].